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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,336	08/16/2001	Randy G. Cowan	00-1914	2641

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EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 04/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/931,336

Applicant(s)

COWAN, RANDY G.

Examiner

Mark T Henderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 11-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 26 is/are allowed.
- 6) ☐ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) 27 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9302 (Official) and (703)872-9303 (for After Finals). This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Election/Restriction***

1. Applicant's election without traverse of Group I, Claims 1-10 and 26-28 in Paper No. 3 is acknowledged. In applicant's response, the applicant mistakenly elected claims 16-18 instead of claims 26-28 indicated in Group I. The examiner, however, has examined Claims 26-28. Claims 18-24, which were mentioned as an "apparatus" invention of Group II, but were not listed in the restriction notice, have been placed as a non-elected invention.

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***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "24" and "26" have been used to designate both "first" and "second" as stated on page 8 of the specification; and "first side" and "second side" as stated on page 11 of the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "38" and "39" as stated on page 9 of the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Rankin et al (6,447,862).

Rankin et al discloses in Fig. 1-3, a label structure comprising: a first axis (26) extending parallel to the longitudinal extent of a liner (22); the label structure having a first side (A) and a second side (B) parallel to the first axis (26); the label structure comprising a base panel (12) for affixing to a surface, having a front face (12A) and a back face (12B), wherein the back face (12B) has applied adhesive (28); a first leaflet or folded panel (16d) positioned adjacent the front face (12A) of the base panel (12), having a first fold (21a) parallel with the first axis (26) and positioned toward the first side (A) and further defining a first fold axis (as seen in Fig. 2); wherein the first fold divides; a second leaflet or second folded panel (16e) positioned forward (at least at the fold) of the first leaflet such that at least a portion or leaf (16n) of the first leaflet is positioned between the second leaflet and the base panel and further defining a second fold axis (seen in Fig. 2), wherein the second leaflet has a second fold (21b), positioned toward the second side relative to the position of the first fold; and a transparent laminating layer (18) overlying the base panel, the first leaflet and the second leaflet, wherein the laminating layer has a back face (18c) adhered (by adhesive 24) to a portion of the base panel; wherein the laminating layer is adhered (not directly adhered) to a portion of the first and second leaflet (wherein the second

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leaflet is attached to the first leaflet); and further wherein the first and second folded panel are each divided into a pair of leaves, each of the leaves having an inner and an outer page face;

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 10, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rankin et al.

Rankin et al discloses a label structure comprising all the elements as claimed in Claim 1, and as set forth above. Rankin et al further discloses: wherein the front face of the base panel has printed indicia disposed thereupon (Col. 3, lines 40-45); and wherein the inner page faces are oriented toward each other and the outer page faces are oriented away from each other; and wherein the leaves are adapted for permitting viewing of printed matter thereon (Col. 4, lines 1-3).

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However, Rankin et al does not disclose: that the first and second leaflets are positioned in front of the second area of the front face; wherein the outer page face of the back second leaf is oriented toward the outer page of the front first leaf; wherein the first fold is positioned at a distance from the first side of the label structure that is equal to or greater than a distance between the second fold and the first side of the label structure.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the first and second leaflets, and the their folds at any desirable location under the laminating layer and above the base panel, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

***Allowable Subject Matter***

6. Claim 26 is allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: No prior art of record discloses a label system comprising: a liner; a label structure; a first leaflet having inner page faces; a second leaflet having inner and outer page faces which are adapted for permitting viewing of indicia, and being positioned forward of the first leaflet such that the first

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leaflet is positioned between the second leaflet and the base panel; and a laminating layer having front and back faces, wherein the back face is adhered to a portion of the first leaflet and a portion of the second leaflet, and wherein the laminating layer is adhered to a portion of the outer face of the front second leaf of the second folded panel of the second leaflet; and including all of the other limitations of the independent claim.

#### *Prior Art References*

The prior art references listed in the attached PTO-892, but not used in a rejection of the claims, are cited for (their/its) structure. Barry ('023), Barry ('019), Cowan et al ('616), Cowan et al ('878), Jones et al, Pilmmer, Barry ('271), Treleaven et al ('263), Treleaven et al ('152), Barry ('476), Barry ('637), Anderson, Barry ('455), Grosskopf et al, Anderson ('239), Pedroli et al, Hill et al, Mack, Pendry et al, Baum, Jr et al, Lind, Barry (WO-'131), Ludwig, Cowan, Jacques and Instance.




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**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (703)305-0189. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington, can be reached on (703) 308-2159. The fax number for TC 3700 is (703)-872-9302. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703)308-1148.

MTH

March 28, 2003

  
A. L. WELLINGTON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700